

Appl. No. 10/051,401
Atty. Docket No. 8401
Response dated November 30, 2005
Reply to Notice of Non-Compliant
Amendment of November 3, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1-3, 5-11, and 31-32 are pending in the present application. Claims 1 and 7 have been amended to more clearly recite patentably distinct aspects of the claimed invention. Applicants deem the amendments to be clarifying in nature only, and thus, should not be construed as narrowing amendments.

In particular, independent claim 1 has been amended to recite that the reactive agent comprises a reactive group chemically bonded to a cosmetically active functional group to clarify that the two groups are in the same molecule. That is, the two groups are not manifested as two separate molecules that simply coexist in the claimed anhydrous treatment composition. The previous claim 1 language—said reactive agent additionally *comprises* a cosmetically active functional group—was intended to convey this distinction. Further, the exemplary reactive agents disclosed in the specification (see, e.g., pages 7, 9, and 10) illustrate the structure of the claimed reactive agent and demonstrate that the cosmetically active functional group is chemically bonded to the reactive group.¹

In addition, new Claims 31-32 have been added. Support for the new claims are found throughout the as-filed specification, including, for example, from line 22 on page 8 to line 13 on page 9, and lines 6-7 on page 11.

Claims 12-30 have been withdrawn as a result of an earlier restriction requirement.

Rejection Under 35 USC §102

Claims 1 and 9-11 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Guskoy (U.S. Patent No. 5,965,113). Claims 1-4, 9 and 11 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Luebbe (U.S. Patent No. 6,013,248). Claims 1-5 and 9-11 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Park (U.S. Patent No. 5,135,741). Claims 1-4, 9 and 11 stand rejected

¹ The exemplary reactive agents further comprise a protected group chemically bonded to the reactive group.

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under 35 U.S.C. § 102(b) as allegedly being anticipated by Jacquet (U.S. Patent No. 4,826,681).

Claim 1 has been amended to recite an anhydrous treatment composition comprising "a reactive agent comprising a reactive group chemically bonded to a cosmetically active functional group." Amended claim 1 is novel over the above-noted references since none of the references teach or suggest this feature. The remaining rejected claims depend from independent claim 1 (directly or indirectly), and are therefore also patentably distinct over the references. Applicants accordingly request withdrawal of the Section 102 rejections of record.

Rejection Under 35 USC §103(a)

Claims 6-8 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jacquet in view of Halloran (EP 437,099). Applicants respectfully submit that a *prima facie* case of obviousness has not been established because there is no motivation or suggestion to combine the teachings of the two references. In fact, Halloran explicitly teaches away from the combination asserted in the Office Action.

As suggested by the Office Action, both Jacquet and Halloran disclose technology related to perming hair. However, the technologies taught by each of them are directed to two different treatment steps and the related materials involved in these steps of the perming process. Thus, there is no motivation or suggestion to combine the teachings from the respective disclosures. Halloran states the following:

The process of perming hair consists of two essential steps. The first step is breaking (reduction) of keratin disulfide (K-S-S-K) bonds in the hair to produce K-S-H functionality. The K-S-H groups are then oxidized in a curled state to produce new crosslinked K-S-S-K bonds. The typical agents for reducing the bonds are thioglycolate salts, which cause the strong odor associated with the perms. The typical agent for the oxidation of the bonds is hydrogen peroxide. (Page 2, lines 4-8).

* * *

The thioglycolamide siloxanes of this invention can be used in place of typical reducing agents in the curling of hair. . .

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The thioglycolamide siloxane is applied evenly on the hair. The treated hair is then allowed to stand at room temperature or in the presence of heat for a period sufficient to produce the desired curl. The hair is then water washed and treated with an oxidizing agent known in the art. The most typical oxidizing agent is an aqueous solution of hydrogen peroxide. (Page 7, lines 8-13).

Since the technology taught by Halloran is directed to an initial breaking or reduction step in hair perming, and the technology taught by Jacquet is directed to a subsequent oxidation step after the hair has been "curled" and then rinsed, and since neither reference suggests the two steps/technologies can be integrated, there is no motivation or suggestion to combine the references.

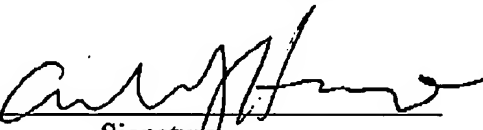
In view of the foregoing, Applicants respectfully requests withdrawal of the Section 103 rejection.

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-3, 5-11, and 31-32 are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
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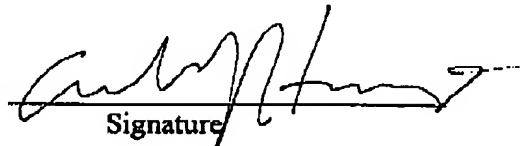
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